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6 Attorney for Defendants
7 MIDLAND FUNDING, LLC
8 MIDLAND CREDIT MANAGEMENT, INC

9
10 UNITED STATES DISTRICT COURT
11
12 EASTERN DISTRICT OF WASHINGTON AT SPOKANE

13 KELLI GRAY, and all others similarly
14 situated,

15 Plaintiffs,

16 v.
17 SUTTELL & ASSOCIATES, *et al*,

18 Defendant.

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21 Case No. 2:09-cv-251-EFS
22 (CONSOLIDATED CASE)

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26 **DECLARATION OF GREGORY
GERKIN**

27 I, Gregory Gerkin declare as follows:

28 1. I am over twenty-one years of age, I am competent to make this
29 Declaration, and I am authorized to make this Declaration on behalf of Midland
30 Funding, LLC (“Midland Funding”), Midland Credit Management, Inc. (“MCM”),
31 and Encore Capital Group, Inc. (“Encore”) (collectively, the “Midland Defendants”). I

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1 am currently employed as a Corporate Counsel for Legal Affairs and Compliance for
2 MCM. MCM services the debt owned by Midland Funding. In my capacity as
3 Corporate Counsel for Legal Affairs and Compliance for MCM, I am responsible for,
4 among other things, monitoring state licensing requirements and assisting in applying
5 for and obtaining licenses. I make this Declaration from my own personal knowledge
6 of the matters set forth herein, or on information and belief based upon my review of
7 the business records of MCM. If called as a witness, I could and would testify
8 competently to the matters set forth in this Declaration.

9 2. At all relevant times to Plaintiffs' Amended Complaint, MCM
10 maintained procedures for monitoring licensing requirements in the State of
11 Washington and for ensuring the Midland Defendants complied with those licensing
12 requirements.

13 3. MCM reviewed and analyzed the applicable licensing laws and
14 monitored those laws for changes in licensing requirements. When required to be
15 licensed, MCM maintained procedures for obtaining the necessary licenses for the
16 Midland Defendants.

17 4. As part of its procedures for complying with the Washington licensing
18 laws, MCM monitored the publications, findings, and determinations of the
19 Washington Department of Licensing ("Licensing Department") and the Collection
20 Agency Board (the "Collection Agency Board")—the state entities that govern the
21 licensing and enforcement of the Washington Collection Agency Act ("WCAA").

22 5. For example, at all relevant times, MCM was licensed in the State of
23 Washington. In compliance with the WCAA, MCM first obtained its Collection
24 Agency License on July 12, 2000. Since that time, MCM has sought and obtained
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1 additional collection agency licenses, for each of MCM's branch offices. MCM
2 currently holds six Washington collection agency licenses.

3 6. At the time Plaintiffs filed their lawsuits against the Midland Defendants
4 in 2009, the Collection Agency Board—the agency charged with administering the
5 WCAA—had adopted an interpretation that debt buyers such as Midland Funding
6 were not required to be licensed under the WCAA.

7 7. Based on the Collection Agency Board's determinations, MCM
8 reasonably understood the WCAA's licensure requirement not to apply to Midland
9 Funding.

10 8. In 2013, the Washington legislature amended the WCAA to plainly
11 include within the WCAA's licensure requirements debt buyers such as Midland
12 Funding.

13 9. As a result, in early August 2013, MCM, pursuant to its maintained
14 procedures, immediately took the necessary steps to obtain a Collection Agency
15 License for Midland Funding, which was ultimately issued on September 26, 2013.

16 10. Midland Funding is a passive debt buyer that has no employees and is
17 merely a holding company for delinquent accounts, including Plaintiffs' accounts.

19 I, Gregory Gerkin declare and certify that I have read the foregoing Declaration
20 and know its contents. Pursuant to 28 U.S.C. § 1746, I declare under penalty of
21 perjury that the foregoing is true and correct.

22 Executed this 7th day of August, 2015.



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25
26 Gregory Gerkin

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